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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/686,811	10/17/2003	Toshifumi Otsubo	2038-301	8784

22429 7590 07/05/2005

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EXAMINER

BUI, LUAN KIM

ART UNIT	PAPER NUMBER
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3728

DATE MAILED: 07/05/2005

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary

Application No.

10/686,811

Applicant(s)

OTSUBO, TOSHIFUMI

Examiner

Luan K. Bui

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-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 13 May 2005.
- 2a) ☒ This action is **FINAL**. 2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-8 and 10-21 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☒ Claim(s) 2 and 18 is/are allowed.
- 6) ☒ Claim(s) 1,3-8,10,11,13-17 and 19-21 is/are rejected.
- 7) ☒ Claim(s) 12 is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
- ☐ Certified copies of the priority documents have been received.
 - ☐ Certified copies of the priority documents have been received in Application No. _____.
 - ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
- * See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- 1) ☒ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☐ Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)
Paper No(s)/Mail Date _____
- 4) ☐ Interview Summary (PTO-413)
Paper No(s)/Mail Date. _____
- 5) ☐ Notice of Informal Patent Application (PTO-152)
- 6) ☐ Other: _____

Claim Rejections - 35 USC § 112

1. The following is a quotation of the second paragraph of 35 U.S.C. 112:

The specification shall conclude with one or more claims particularly pointing out and distinctly claiming the subject matter which the applicant regards as his invention.

2. Claims 1, 3-5 and 6 are finally rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention. In claim 1, the phrase "said gold guiding lines" lacks proper antecedent basis. In claim 6, the phrase "from an apex a middle zone" is incomplete and indefinite.

Claim Rejections - 35 USC § 103

3. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

4. Claims 1, 3, 6-8, 13, 16, 17, 19 and 21 are finally rejected under 35 U.S.C. 103(a) as being unpatentable over Bauer et al. (5,934,470; hereinafter Bauer'470) in view of The Japanese Patent Publication No. 48-20638 (hereinafter JP'638) and The Japanese Patent Publication No. 50-21845 (hereinafter JP'845). Bauer'470 discloses in the embodiment of Figures 1 and 3 a packaged assembly (10, 20) of disposable diapers (21) comprising most the limitations of the claims including a rectangular hexahedron package/container formed from a flexible sheet (19) having first through sixth surfaces for containing the diapers and the diapers including first diapers each having a waist's end portion lying on a side of a first surface of the package and

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second diapers each having a waist's end portion lying on a side of a second surface of the package opposed to the first surface so the first and second diapers are alternately placed in close contact one with another to form a row and the number of the first diapers is substantially equal to the number of the second diapers. Each of the diapers comprises a liquid-pervious topsheet facing a wearer's body, a liquid impervious backsheet facing away from the wearer's body and a liquid-absorbent core interposed between the topsheet and backsheet between the front and rear waist regions. However, Bauer'470 fails to show each of the diapers including the respective liquid-absorbent core being folded at both lateral portions of a crotch region's bottom along a pair of fold-guiding lines which do not intersect each other and each of the fold guiding lines bifurcating from a transversely middle zone toward higher points of a leg-hole.

JP'638 teaches a diaper (1) folded at both lateral portions of a crotch region's bottom along a pair of fold-guiding lines (a, a) which do not intersect each other and each of the fold guiding lines bifurcating from a transversely middle zone toward higher points of a leg-hole (Figures 1-4).

JP'845 shows a diaper comprising a waist hole and a pair of leg holes. The diaper is folded at both lateral portions of a crotch region's bottom along a pair of fold-guiding lines (9) which do not intersect each other and each of the fold guiding lines bifurcating from a transversely middle zone toward higher points of a leg-hole (Figures 4-6). It would have been obvious to one having ordinary skill in the art at the time the invention was made in view of JP'638 and JP'845 to modify the diapers of Bauer'470 so each of the diapers including the respective liquid-absorbent core being folded at both lateral portions of a crotch region's bottom along a pair of fold-guiding lines which do not intersect each other and each of the fold guiding lines bifurcating from a

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transversely middle zone toward higher points of a leg-hole for better packaging the plurality of diapers in the package.

As to claim 6, JP'638 or JP'845 shows each of the fold guiding lines comprises a V shape including two sections extending from an apex of the crotch region.

As to claim 10, Bauer'470 discloses the container includes perforations (17) defining a tear-off portion.

As to claim 16, JP'638 or JP'845 shows each of the fold guiding lines completely located on one side of and spaced from a central longitudinal line of the diaper.

5. Claims 4, 5, 14 and 15 are finally rejected under 35 U.S.C. 103(a) as being unpatentable over the references as applied to claims 1 and 6 above, and further in view of McQueeney et al. (5,361,905; hereinafter McQueeney'905). The packaged assembly of Bauer'470 further fails to show the package contains at least two rows of diapers being placed upon each other in a vertical direction or the two rows being arranged side by side. McQueeney'905 shows a package for diapers comprising at least two rows of diapers and the rows placed upon each other in a vertical direction or the rows arranged side by side (Figures 1 and 3). It would have been obvious to one having ordinary skill in the art in view of McQueeney'905 to modify the packaged assembly of Bauer'470 so the package is configured to hold at least two rows of diapers and the rows placed upon each other in a vertical direction or the rows arranged side by side to provide a larger package for holding diapers and for better packaging.

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6. Claims 11 and 20 are finally rejected under 35 U.S.C. 103(a) as being unpatentable over the references as applied to claims 10 and 16 above, and further in view of Yee (5,282,687). Bauer'470 discloses the packaged assembly comprises the perforations (17) defined the tear-off portion. McQueeney'905 shows the package comprises perforation lines defined a tear-off portion (70, 78, 80). However, Bauer'470 fails to suggest the tear-off portion being extended longitudinally in a direction between the top and bottom of the package and along a corner of the package. Yee suggests a package having perforations (42) defined a tear-off portion along two corners of the package (Figures 4-11). It would have been obvious to one having ordinary skill in the art in view of Yee to modify the tear-off portion of Bauer'470 so the tear-off portion is extended longitudinally in a direction between the top and bottom of the package and along the corners of the package for dispensing the diapers and because the selection of the specific location for the tear-off portion such as the tear-off portion as disclosed by the Bauer'470 or McQueeney'905 or Yee or as claimed would have been an obvious matter of design choice inasmuch as applicant's specification does not state that using these specific location as claimed solves any particular problem or yields any unexpected results.

Allowable Subject Matter

7. Claims 2 and 18 are allowed.

8. Claim 12 is objected to as being dependent upon a rejected base claim, but would be allowable if rewritten in independent form including all of the limitations of the base claim and any intervening claims.

Response to Arguments

Applicant's arguments with respect to 5/13/2005 have been considered but are deemed to be moot in view of the new grounds of rejection.

Applicant's argument with respect to the absorbent core not folded by JP'845 is noted. This is not persuasive because JP'845 is relied upon for nothing more than the pair of fold guiding lines.

Applicant's amendment necessitated the new ground(s) of rejection presented in this Office action. Accordingly, **THIS ACTION IS MADE FINAL**. See MPEP § 706.07(a). Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire **THREE MONTHS** from the mailing date of this action. In the event a first reply is filed within **TWO MONTHS** of the mailing date of this final action and the advisory action is not mailed until after the end of the **THREE-MONTH** shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than **SIX MONTHS** from the date of this final action.


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Conclusion

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Luan K. Bui whose telephone number is (571) 272-4552. If in receiving this Office Action, it is apparent to Applicant that certain documents are missing from the record for example copies of references cited, form PTO-1449, form PTO-892, etc., requests for copies of such papers should be directed to Ms. Errica Miller at (571) 272-4370.

Any inquiry of a general nature or relating to the status of this application should be directed to the Customer Service whose telephone number is (703) 306-5648. Facsimile correspondence for this application should be sent to (703) 872-9306 prior July 15, 2005 and (571) 273-8300 after July 15, 2005 for Formal papers and After Final communications.

lkb
June 30, 2005



Luan K. Bui
Primary Examiner